UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,800	01/30/2001	Kirkland W. Vogt	5138	1001

7590 01/02/2003

Terry T. Moyer
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER
GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-5

Office Action Summary	Application No. 09/772800	Applicant(s) Vogt et al.
	Examiner John Guarriello	Group Art Unit 1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-77 is/are pending in the application.

Of the above claim(s) 65-71, 73-77 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1-64, 72 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ Th proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ Th drawing(s) filed on _____ is/are objected to by the Examiner

☐ Th specification is objected to by the Examiner.

☐ Th oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☑ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

DETAILED ACTION

Election/Restriction

15. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-64, drawn to a device of a coated textile, classified in class 442, subclass 64.

II. Claims 65-71, drawn to method of coating textile, classified in class 427, subclass 19.

16. This application contains claims directed to the following patentably distinct species of the claimed invention: claims 72-77 are directed to the species of image : claim 72 is directed to image for the color black; claim 73 is directed to color red; claim 74 is directed to color yellow; claim 75 is directed to color blue; claim 76 is directed to an image of acuity ratio of 1 for the warp; and claim 77 directed to an image of acuity ratio of 1 and about 1.3 for the fill. The Examiner notes for the record that applicant elected the

species of claim 72 with traverse. Claims 73-77 are withdrawn as the non-elected species claims.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 27 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant

must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

17. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process whereby the coating can be applied to any side of a substrate and the image subsequently applied.

18. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

20. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

21. During a telephone conversation with Jeffrey Bacon on 8/26/2002, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-64, election of species of claim 72. Affirmation of this election must be made by applicant in replying to this Office action. Claims

65-71 Group II, and species 73-77, are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

22. The use of the trademarks: "Aerotex M3" page 4, line 19; "Polycat M-30", page 6, line 3; "Foraperle 501", page 6, line 4; have been noted in this application as well as others which are not identified as trademarks, see pages 5 Table 1, and page 6 in this specification. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

23. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

24. Claims 1-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, the preamble "device" is interpreted by the Examiner to mean a laminate or composite with a coating on a textile substrate, this interpretation applies to the independent claims 45, 72 and those claims dependent upon the independent claims.

In claim 8, line 2, it is not clear if this is a Markush group, if so, then the phrase is "selected from the group consisting of".

In claim 10, line 2, it is not clear if this is a Markush group for the same reason given for claim 8.

In claim 14, line 2, it is not clear if this is a Markush group for the same reason given for claim 8.

In claim 15, line 2, it is not clear if this is a Markush group for the same reason given for claim 8.

In claim 18, line 3, it is not clear if the term should be **silicone** and not "silicon".

In claim 24, line 2, it is not clear if the term should be **methacrylic** not "methacylic".

In claim 27, line 2, it is not clear what the term "theron.1" encompasses.

In claim 45, it is not clear what the preamble regarding the term "first surface" encompasses since the claim does not state second surface or other surfaces, futher "device" is interpreteted as being a laminate or composite with as coating applied to a textile composite or laminate.

Claim Objections

25. Claims 4, 6, 16 are objected to because of the following informalities:

In claim 4, line 3, "quanternary" appears to be **quaternary, see claim 17**; In claim 6, line 3, "polyallyamine" appears to be **polyallylamine,** if not, then provide support in the specification. In claim 16, line 2, "include" appears to be **includes.** Appropriate correction is required.

Claim Rejections - 35 USC § 102

26. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 9, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Alfekri et al. 6,001,137.

Alfekri describes ink jet printing and treating textile products before ink jet printing (corresponding to a textile substrate with a coating) with a cationic alkylammonium salt, cationic binder, a quaternary fatty amide, corresponding to a coating, (see abstract; column 1, lines 17-22; column 2, lines 17-42).

Alfekri describes coating materials binding to natural and synthetic fibers woven or knitted, (column 3, lines 1-4). Alfekri describes applying the coating to one surface of the fabric or to both surfaces of the fabric, (column 3, lines 40-49). Alfekri describes a coating softener with the cationic

polymers or copolymers to improve waterfastness and hand characteristics of the fabric and other chemicals, (column 4, lines 3- 67). Alfekri describes the addition of other components may be an acrylic copolymer which corresponds to a repellant finish, (column 2, lines 39-42). Alfekri describes the essential limitations of the claimed invention. Claims lack novelty.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28. Claims 1, 8, 10-16, 18-64 rejected under 35 U.S.C. 103(a) as being unpatentable over Alfekri et al. 6,001,137 in view of Sudduth et al. 5,770,531 and Lebold et al. 6.054,399 and Kirk Othmer pp. 598-601.

Alfekri as above in paragraph # 26 except it is silent about specific repellants of fluorocarbon, siloxane, and others regarding textiles and weave.

Sudduth describes nonwoven fabrics and treatments of the fabrics so as to enhance softness by means of chemicals, (column 1, lines 1-38). Sudduth describes softening chemicals which include silicone and siloxane additives, (column 6, lines 52-53; column 7, lines 27-35). Sudduth describes other softeners of cationic polymers which can be quaternary ammonium compounds and others which may be silicone, (column 9, lines 25-50).

Lebold describes fluorocarbon treatment of textiles which can be woven or nonwoven textiles, (see abstract; column 3, lines 1-4, lines 46-67). Lebold describes the fluorocarbon particles can be applied by many methods of which one can be chemical binding, (column 5, lines 48-60), and for various intended purposes which can be repellancy finish.

Kirk Othmer describes textiles and the various materials that can affect finishes for waterproofing or repellancy, (page 598). Kirk Othmer describes different repellant finishes corresponding to fluorochemicals used for upholstery, drapery, automotive fabrics, and carpeting, (page 599). Kirk Othmer describes other finishes for repellancy can be silicones, resin-based

finishes (modified melamine resins), waxes, wax-metal emulsions, and organometallic complexes, (pages 600-601). Kirk Othmer describes that textile fibers may be modified by chemicals for repellancy and further describes how fabric construction, twist, ply, coarseness or yarns, affect performance of repellants, (page 601).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the textile of Alfekri with the fluorochemicals of Lebold or the siloxanes of Sudduth and the fabric modification parameters of Kirk Othmer motivated with the expectation that the image produced with the coatings will produce an improved fabric of durability and reduced cost as taught by Kirk Othmer, (page 599, paragraphs 1 and 2). Regarding the number of picks per inch and wales per inch it would have been obvious to one of ordinary skill in the art to optimize this construction since this only involves routine skill in the art as noted by Kirk Othmer page 601 and see, In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

John J. Guarriello:gj

Patent Examiner

December 19, 2002